(3)

(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.C.C No. 436 /2006 Single Bench

Applicant

Lalsai Khunte aged about 40 years *S/o Kartik Ram R/o Village* Jamgahan Post Mukta, Tahsil and Thana Malkhruda, Distt. Janjgir Champa

VERSUS

Non applicants

1. Nirmal Sinha aged about 32 years S/o Nandram Sinha, R/o Village and post Hasod, Tahsil and Thana Jaijaipur, Distt. Janjgir Champa
2. Chain Singh Samle aged about 44 *years, S/o Anand ram Samle R/o* Village Adil Post Orda, Tahsil and Thana Malkharuda Distt. Janjgir Champa
3. Dayaram Koshle aged about 58 years, S/o Kunjram Koshle, R/o Village Post Jaijaipur Tahsil and Thana Malkharuda Distt. Janjgir *Champa*
4. Jambulal Khunte aged about 25 years R/o Village jamgahan Post Mukta,Tahsil and Thana Malkharuda Distt. Janjgir Chmpa
5. Bandhulal aged about 35 years,S/o Bodoram R/o Village and post Bandora Tahsil and Thana *Malkharuda Distt. Janjgir Chmpa*
6. Tarjan Singh aged about 26 years, S/o Late Shri Kartikram R/o Village Post Piharid,Tahsil and Thana Malkharuda Distt. Janjgir Chmpa
7. Rajkumar aged about 32 years S/o Deoram, R/o Village and post

P.R. No. 2390/06 Presented by Shri P. Kotecha dated 21/9/06 A.R.

19/10/06

Odekera,Tahsil and Thana
Malkharuda Distt. Janjgir Chmpa

APPLICATION FOR EXTENSION AND MODIFICATION OF STAY ORDER DATED 04/08/06 PASSED UNDER SECTION 116-B OF THE REPRESENTATION OF THE PEOPLE ACT 1951

XI-HC-22

28

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.C.C.NO 136/06 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

29/08/2006

Shri Parag Kotecha, counsel for the applicant.

None for the non-applicants.

Heard on maintainability of the application filed by the applicant for extension and modification of stay order dated 04/08/2006.

Learned counsel for the applicant frankly concedes that the appeal as required under Section 116A. of the Representation of the People Act, 1951 (for short, "the Act") has already been filed in the Supreme Court of India.

Section 116B (1) & (2) of the Act reads as below:

> "116B. Stay of operation of order of High Court.- (1) An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.
> (2) Where an appeal has been preferred against an order made under section 98 or section 99,

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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the Supreme Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from."

Bare reading of the provisions envisaged under Section 116B of the Act, it is manifest that no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court and when an appeal has been preferred, the Supreme Court alone has power to stay the operation of the order appealed from.

Here in the instant case, this Court vide order dated 04/08/2006 granted stay on certain conditions for a period of 15 days and that period has expired, therefore, this application has been filed to extend the said period. After filing of the appeal before the Supreme Court, this Court has no jurisdiction to grant stay, therefore, in the garb of extension, stay cannot be granted by this Court, therefore, the application does not appear to be maintainable for hearing.

Therefore, M.C.C.No.436 is rejected as not maintainable. Consequently, I.A.No.2667/2006 stands disposed of.

Sd/-
V.K.Shrivastava
Judge

Raju

(पीछे देखिये)